

ATTACHMENT 4.12

Order of Selection Contingency

Attachment 4.12.(c)(2)(A) Order of Selection Contingency

In the event that vocational rehabilitation services cannot be provided to all individuals with disabilities who apply and are found to be eligible for such services, the State Agency must show and provide the justification for the order to be followed in selecting individuals to whom vocational rehabilitation services will be provided.

The order of selection for the provision of vocational rehabilitation services shall be determined on the basis of serving first individuals with the most significant disabilities in accordance with criteria established by the state.

Note: The terms 'significant' and 'most significant' refer to and are used to describe the severity of the disability of each individual.

Description of the Order of Selection

Priority 1 - Eligible individuals with the most significant disabilities.

Priority 2 - Eligible individuals with significant disabilities.

Priority 3 - All other eligible individuals with disabilities which are not significant.

Definitions

A. Individuals with the Most Significant Disabilities

An individual with the most significant disabilities means an individual who meets at least one criteria under 1 below and who will require multiple VR services over an extended period of time, or who meets the criteria under 2 below:

1. Documentation is received by the Utah State Office of Rehabilitation (USOR) that the individual is:
 - a. Eligible for services from Division of Services for People with Disabilities; or
 - b. Determined Seriously and Persistently Mentally Ill (SPMI) by the Mental Health System, a duly licensed physician, licensed psychologist, other qualified provider under the

Mental Health Professional Practice Act, the Judicial System in accordance with DSM-IV-TR; or

- c. Found to be permanently and totally disabled by the State Labor Commission;
2. If an appropriate determination has not been made by another agency, the individual must exhibit serious limitations, as a result of the disability(s), in two or more of the seven categories of functional capacity which are mobility, communication, self care, self direction, interpersonal skills, work tolerance, or work skills
and,

The individual will require multiple VR services over an extended period of time.

NOTE: Examples of serious limitations under the seven categories include but are not limited to:

- a. Mobility
 - i. Requires assistive devices (cane, canes for the blind, crutches, prosthesis, walker, wheelchair) to be mobile.
 - ii. Is unable to climb one flight of stairs without pause.
 - iii. Is unable to walk 100 meters without pause.
 - iv. Cannot evacuate from a building in less than three minutes without assistance.
 - v. Unable to travel to and from worksite (including accessing public transportation) without assistance.
 - vi. Other similar mobility deficits.
- b. Communication
 - i. Expressive and receptive primary mode of communication is unintelligible to non-family members.
 - ii. Does not demonstrate understanding of simple requests or is unable to understand one-to-two step instructions including instructions given through an interpreter.
 - iii. Is unable to read or understand any written material or instructions due to disabling condition
 - iv. Other similar communication deficits.
- c. Self-care

Is unable to perform activities of daily living without assistance (i.e. loss of manual dexterity or coordination sufficient that he/she cannot perform personal hygiene tasks, dress self, prepare own meals etc. without assistance)

d. Self direction

- i. Is unable to provide informed consent for life issues without the assistance of a court appointed legal representative or guardian; or has been declared legally incompetent.
- ii. Is unable to understand rights or responsibilities in judicial or other proceedings even with utilization of an interpreter.
- iii. Is unable to perform work in an integrated setting without support because is unable to tell time, manage time, and/or stay on task without assistance.
- iv. Is unable to perform work outside sheltered environment.
- v.. Other similar deficits in self-direction.

e. Interpersonal Skills

- i. Has disfigurement or deformity so pronounced as to cause social rejection.
- ii. Has demonstrated behavior such that the individual is a danger to self and others without supervision.
- iii. Is unable to respond appropriately to supervision or to respond appropriately to co-workers or the public.
- iv. Consistently demonstrates behavior toward others which is considered offensive, unpredictable or explosive.
- v. Other similar interpersonal skill deficits.

f. Work Tolerance

Is unable to perform sustained work for more than 4 hours per day.

g. Work Skills

- i. Is unable to perform work tasks outside sheltered environment.
- ii. Is unable to perform several types of work tasks (regardless of training) due to disabling condition.
- iii. Other similar work skill deficits.*

When an individual is determined to have the “most significant disabilities” under sub paragraph 2 above, the counselor must document the functional deficits.

NOTE: Individuals who are allowed SSI/SSDI disability benefits from the Social Security Administration MAY or MAY NOT be considered Most Significantly Disabled. To be considered Most Significant there must be two or more functional limitations or a determination from another agency as described under 24.3(A)(1) (a-c)

B. Individuals with Significant Disabilities

A significantly disabled person is one who can be classified in any one of the following three categories at any time while he or she is in the vocational rehabilitation process:

Category 1. An individual who:

- a. has a significant physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self care, self direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome (for examples of such on functional limitations see CSM 24.3 A 2); and
- b. whose vocational rehabilitation is expected to require multiple services over an extended period of time; and
- c. who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined to cause comparable substantial functional limitation.

Note: For examples of such disabilities and their resulting limitations which may justify classification as significantly disabled (or most significantly disabled) see Appendix A.

Category 2. A recipient of a Social Security Disability Insurance benefit (SSDI) who requires multiple vocational rehabilitation services over an extended period of time.

Category 3. A recipient of a Supplemental Security Income (SSI) payment by reason of blindness or disability who requires multiple vocational rehabilitation services over an extended period of time.

NOTE: **Individuals who are allowed SSI/SSDI disability benefits from the Social Security Administration are considered to be at least Significantly Disabled.**

C. Individual with A Disability

An individual with a disability means an individual who:

has a physical or mental impairment which for that individual constitutes or results in a substantial impediment to employment;

can benefit in terms of an employment outcome after receiving vocational rehabilitation services; and

requires vocational rehabilitation services to prepare for, enter, engage in or retain gainful employment.

D. Multiple Services

Multiple VR services means - three or more services as listed under Section 103 of the Act.

E. Extended Period of Time

Extended Period of time means - the life span of the case is projected to be six months or more.

Restrictions on Establishing Priorities

The following factors must **not** be used as criteria for establishing selection priorities:

- A. Type of disability
- B. Age, sex, race, color, creed, or national origin.
- C. Vocational expectation
- D. Income level
- E. Duration of residency requirement
- F. Source of referral or cooperative agreements with other agencies/programs
- G. Cost of services or availability of comparable services and benefits

Continuity of Service Provision under Order of Selection

During the implementation of an order of selection, the State VR Agency must:

- A. Continue to accept applications and make determinations of eligibility.
- B. Reserve sufficient resources to meet these obligations, and
- C. Continue providing needed services to eligible individuals with IPE's implemented prior to the effective date of the Order of Selection.

Note: Continuity of Service in all areas is subject to the availability of funding.

General Administrative Requirements

- A. When setting up the Order of Selection, the State Agency must take into consideration all eligible individuals and prioritize each one of them.
- B. The Order of Selection must be implemented statewide with the same priority levels in all areas of the state.
- C. The State Agency, in consultation with the State Rehabilitation Council (SRC), must describe and explain its order of selection and this decision must be disseminated to the public for review and comment prior to implementation.

Order of Selection Procedures

- A. When the Executive Director of USOR invokes an order of selection to prioritize the provision of VR services, each eligible individual will be classified into one of the three (3) priority categories listed above based on the determination of the significance/severity of their disability. If necessary, further prioritization within a category will be done by application date.
- B. The priority classification shall be determined solely on the significance severity of the disability.
- C. All applicants including individuals in trial work exploration status (06) and eligible without IPE status (10), shall be notified in writing of the Order of Selection and their subsequent priority classification. Included in the written notification will be their right to appeal the determination of their priority classification and the availability of the Client Assistance Program (CAP)

- D. Diagnostic services necessary to determine eligibility including services in extended evaluation shall not be impacted by the Order of Selection.
- E. An individual who is found to be eligible but whose priority category is closed at the time of eligibility determination shall be placed in Order of Selection Deferred Status (04).
- F. No services, including non-paid IPE services, shall be provided to individuals in status (04).

EXCEPTION: If the individual appeals the determination and there is justification, additional diagnostic services necessary to reassess the **significance/severity** of the individual's disability and subsequent priority category may be provided.

Change in Priority Levels

- A. If the Executive Director of USOR determines that resources are further limited to where the Order of Selection must be restricted to a higher priority, the field will be notified in writing of the level and the implementation date.

All other procedures such as applicant/client notification of the new priority level, continuity of services of those with IPEs, diagnostics, etc. shall continue as they did with the initial implementation of the Order of Selection.

- B. If the Executive Director of USOR determines that additional resources are available but are not sufficient to serve an entire category, individuals will be pulled out of Status (04) in the category that was opened, in the order of application date.

Case Service Checklist

- A. The counselor must have sufficient data, either through existing information or purchased diagnostics to establish a priority category for each individual determined to be eligible.
- B. The counselor must determine the eligible individual's priority level before the development of an IPE. (Current USOR policy requires Most Significant, Significant and Non-Significant classification at eligibility determination).
- C. The case record must contain the documentation and rationale which would support the priority level given.

- D. Each eligible individual shall be classified in the highest priority level for which he/she is qualified.
- E. Once classified, that individual shall remain in the highest priority achieved regardless of improvement through restoration, therapy or spontaneous recovery.
- F. In instances where it is felt that the severity of the disability has increased to the point that a counselor or client believes a change in priority categories is justified, a reassessment may be implemented.
- G. The priority level and the justification for that determination shall be communicated to each eligible individual with documentation in the case file. This would include:
 - 1. Original notification of priority level.
 - 2. Reclassification notification as a result of changes in client circumstances.
 - 3. Notification of non-reclassification following requested review.

Each notification shall include the right to appeal and the availability of the CAP.

NOTE: ALL INFORMATION REGARDING NOTIFICATION OF ORDER OF SELECTION PRIORITY LEVELS SHALL BE AVAILABLE IN ALTERNATIVE FORMATS.

Monitoring

Individuals in Order of Selection Deferred Status (04) shall be contacted at least once in the first 90 days after being placed in deferred status and periodically monitored as long as they remain in that status if they request follow up.

Contact and monitoring lists will be computer generated with minimal efforts required of staff.

Closure

Individuals not wanting to be in deferred status after being informed that their priority category are currently not open, or individuals no longer interested in remaining in deferred status after the first 90 day or a subsequent contact will be closed in status 38.